

# Notice of Allowability

Application No.

10/786,587

Applicant(s)

DEARDURFF, LARRIE A.

Examiner

Helene Klemanski

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE and IDS filed 17 January 2008.
2. ☒ The allowed claim(s) is/are 9-14, 29 and 30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 1/17/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20080129
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Helene Klemanski*  
HELENE KLEMANSKI  
PRIMARY EXAMINER  
GROUP 1700

### **EXAMINER'S COMMENT**

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's IDS submission filed on 17 January 2008 has been entered.
2. The previously made Restriction and Examiner's Amendment appears below since applicant has not provided a current complete listing of the claims reflecting the changes made by the previous Examiner's Amendment with the request for continued examination.

#### ***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 9-14, 29 and 30, drawn to a magenta ink composition and a method of printing the ink composition, classified in class 106, subclass 31.49.
  - II. Claims 15-19 and 31, drawn to a magenta ink composition and a method of printing the ink composition, classified in class 106, subclass 31.47.
  - III. Claims 20-24 and 32, drawn to a magenta ink composition and a method of printing the ink composition, classified in class 106, subclass 31.48.

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- IV. Claims 33-39, drawn to a method of stabilizing chromophore dyes containing imino groups, classified in class 548, subclass 373.1+.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions I - IV are unrelated to each other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions of Groups I-III are all ink compositions each containing a different dye component that are unrelated to each other and Group IV is unrelated to the ink compositions since it is a method of stabilizing a chromophore dye.

5. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

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(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable

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over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. During a telephone conversation with Mr. W. Bradley Haymond on March 23, 2007 a provisional election was made with traverse to prosecute the invention of Group I, claims 9-14, 29 and 30. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-24 and 31-39 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### **EXAMINER'S AMENDMENT**

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. W. Bradley Haymond on March 28, 2007.

The application has been amended as follows:

On page 3, line 9 of the specification, a comma has been inserted between the terms "ethyl" and "isopropyl".

On page 7, line 19 of the specification, a comma has been inserted between the terms "ethyl" and "isopropyl".

On page 24, line 9 of the specification, the number "5" has been replaced with the number "6".

In claim 9, the first line after the dye formula, the term "R1" has been replaced with the term "R<sub>1</sub>" and a comma has been inserted between the terms "ethyl" and "isopropyl".

Also in claim 9, the third line after the dye formula, the term "R2" has been replaced with the term "R<sub>2</sub>".

Further in claim 9, the fifth line after the dye formula, the term "R3" has been replaced with the term "R<sub>3</sub>".

Lastly in claim 9, the next to the last line, the term "R4" has been replaced with the term "R<sub>4</sub>".

In claim 10, line 1, the phrase "dye has the following structure:" has been added after the term "the" (second occurrence).

Also in claim 10, the first line after the formula, the phrase "dye has the following structure:" has been deleted.

Lastly in claim 10, a period has been inserted after the dye structure.

In claim 29, the first line after the dye formula, the term "R1" has been replaced with the term "R<sub>1</sub>" and a comma has been inserted between the terms "ethyl" and "isopropyl".

Also in claim 29, the third line after the dye formula, the term "R2" has been replaced with the term "R<sub>2</sub>".

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Further in claim 29, the fifth line after the dye formula, the term "R3" has been replaced with the term "R<sub>3</sub>".

Lastly in claim 29, the second line after the polyether group formula, the term "R4" has been replaced with the term "R<sub>4</sub>".

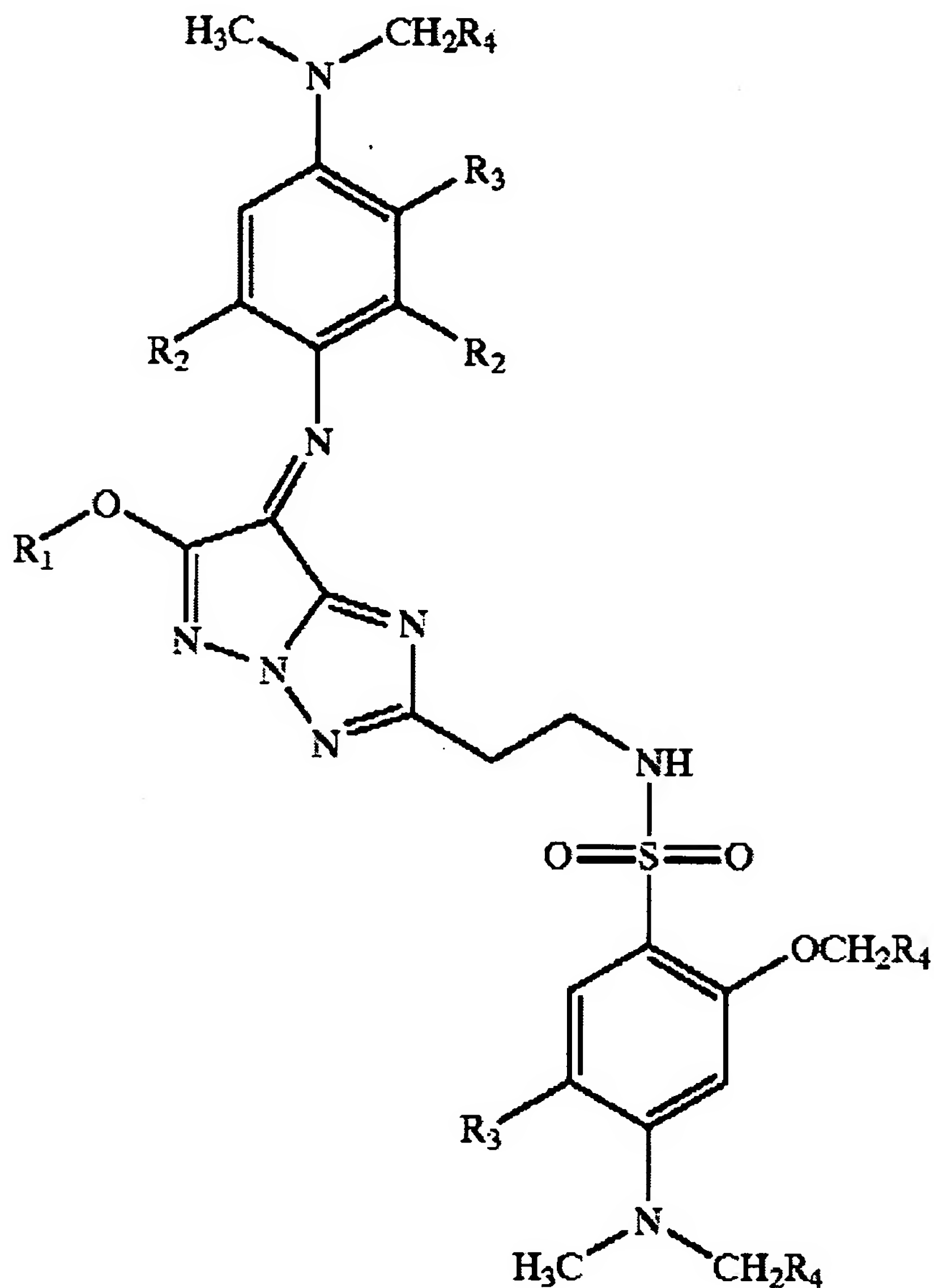
In claim 30, a period has been inserted after the dye structure.

Non-elected claims 15-24 and 31-39 have been canceled without prejudice to the possible continuing prosecution of these claims in a divisional application.

### **REASONS FOR ALLOWANCE**

8. The following is an examiner's statement of reasons for allowance: This application teaches a magenta ink for ink-jet printing comprising a pyrazolotriazole azomethine dye of the formula

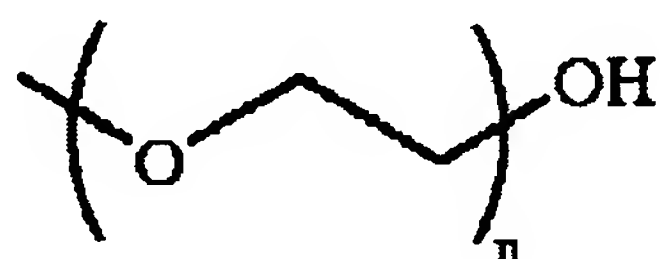
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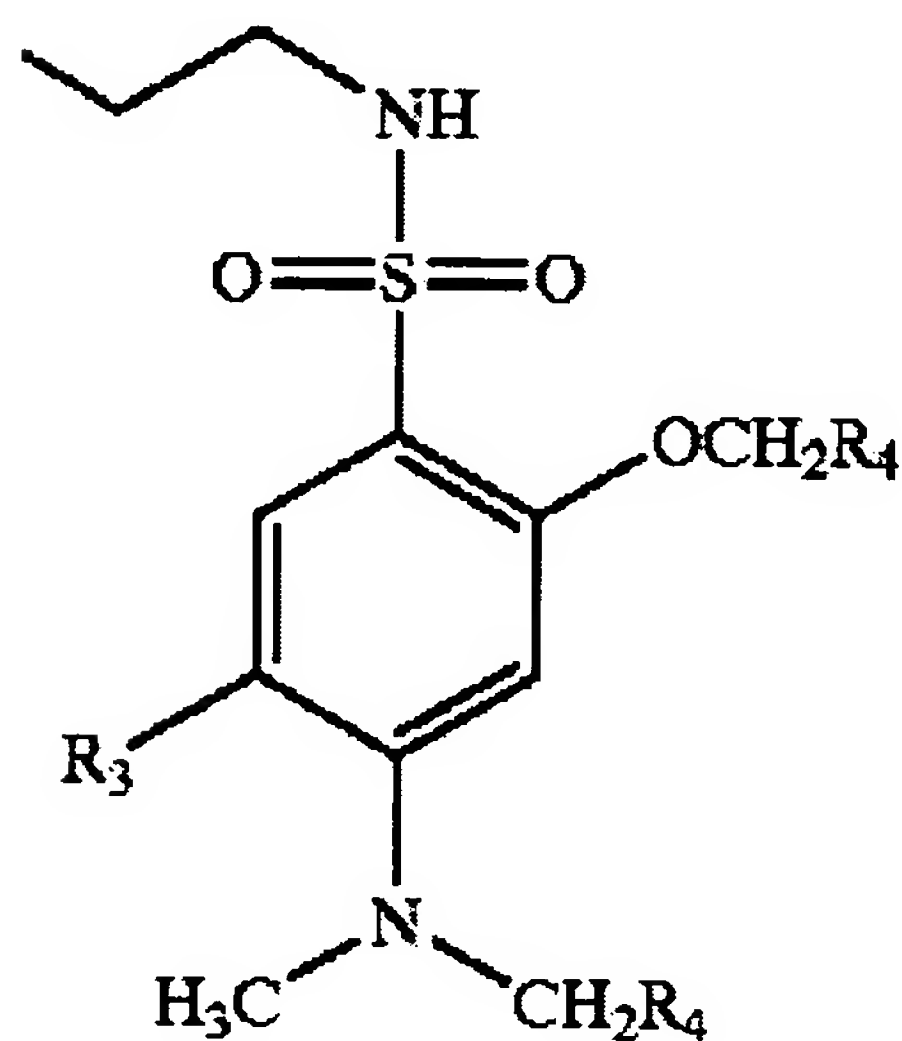
wherein  $R_1$  is selected from the group consisting of ethyl, isopropyl, isobutyl, phenyl and substituted phenyl;  $R_2$  is selected from the group consisting of methyl, ethyl, propyl, isopropyl and halogen;  $R_3$  is selected from the group consisting of H,  $SO_3H$ ,  $COOH$ , and a polyether group of the formula



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where  $n$  is from 2 to 100 and  $R_4$  is selected from the group consisting of H,  $\text{SO}_3\text{H}$ ,  $\text{COOH}$ ,  $\text{CH}_2\text{SO}_3\text{H}$ ,  $\text{CH}_2\text{COOH}$ ,  $\text{C}_2\text{H}_4\text{SO}_3\text{H}$  and  $\text{C}_2\text{H}_4\text{COOH}$ . The closest prior art of record is U.S. Patent No's 5,116,990, 6,494,942 and 6,383,276, issued to Kimura et al., Deardurff et al. and Yamakawa et al. respectively, which all teach magenta inks containing similar pyrazolotriazole azomethine dyes but fail to teach or fairly suggest that the pyrazolotriazole ring contains a substituent of the formula



as claimed by applicants. Accordingly, this application is allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Helene Klemanski/  
Primary Examiner, Art Unit 1793



HK  
January 29, 2008